UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/510,349	02/22/2000	Takashi Kurimoto	034620-049	2612

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Robert E Krebs
Thelen Reid & Priest LLP
P O Box 640640
San Jose, CA 95164-0640

EXAMINER
HOM, SHICK C

ART UNIT	PAPER NUMBER
2666	

DATE MAILED: 03/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/510,349	KURIMOTO ET AL.
	Examiner	Art Unit
	Shick C Hom	2666

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on _10/15/04 & 2/14/05_.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) _1-27_ is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) _1-3,5 and 17_ is/are rejected.

7) ☒ Claim(s) _4,6-16 and 18-28_ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a) ☒ All   b) ☐ Some *   c) ☐ None of:

         1. ☒ Certified copies of the priority documents have been received.

         2. ☐ Certified copies of the priority documents have been received in Application No. _____.

         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _2/14/05_.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments filed 10/15/04 have been fully

considered but they are not persuasive.

In page 12 line 4 to page 13 line 10, applicant argued that

Davies does not disclose monitor traffic information relating to

datagrams transmitted to a network wherein the traffic

monitoring equipment directly monitors the traffic for each user

is not persuasive because the abstract of Davies et al. recites

monitoring telecommunications network traffic having packet

stream comprising packets each identified as belonging to one of

three classes to derive a measure of traffic load on the network

for admission control based on the monitoring; Fig. 2 shows and

col. 2 lines 30-33 recite a datagram being a packet consisting

of a header and a payload; and further, col. 10 lines 37-45

which recite each user using the class marking as means to

influence the traffic flows clearly anticipate monitoring

traffic information relating to datagrams transmitted to a

network and the monitoring of traffic for each user as claimed.

In page 13 line 11 to page 15 line 6, applicant argued that

Davies does not disclose the preference value computation

function and preference value insertion function is not

persuasive because col. 5 lines 22-29 recite calculating a

measure of traffic load on the network based on the monitored

numbers of packets received for each class and col. 7 lines 34-

45 recite each packet being marked to identify the priority or

preference given based on the service class and Figs. 3 and 5

shows the type of service and traffic class marking inserted in

the header clearly anticipate the preference value computation

function and preference value insertion function as claimed.

Claim Rejections - 35 USC § 102

2.   The following is a quotation of the appropriate paragraphs

of 35 U.S.C. 102 that form the basis for the rejections under

this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published
> under section 122(b), by another filed in the United States before the
> invention by the applicant for patent or (2) a patent granted on an
> application for patent by another filed in the United States before the
> invention by the applicant for patent, except that an international
> application filed under the treaty defined in section 351(a) shall have the
> effects for purposes of this subsection of an application filed in the
> United States only if the international application designated the United
> States and was published under Article 21(2) of such treaty in the English
> language.

3.   Claims 1-3, 5, and 17 are rejected under 35 U.S.C. 102(e)

as being anticipated by Davies et al. (6,483,805).

Regarding claim 1:

Davies et al. disclose the traffic monitoring equipment including: a traffic monitoring function for monitoring traffic information relating to datagrams that have been transmitted by individual users to a network or the datagrams that have been received from said network by said individual users during a specific time interval between a pre-determined earlier point in time and a current point in time (see col. 5 lines 46-65 which recite the processor for monitoring the rate of occurrence of packets indicative of starts and ends of bursts within the traffic flow and abstract recites monitoring telecommunications network traffic having packet stream comprising packets each identified as belonging to one of three classes to derive a measure of traffic load on the network and for admission control based on the monitoring), and storing monitored results (see col. 4 lines 29-41 which recite storing the measured current traffic load); a preference value computation function for evaluating the individual users' usage of communications, based on the traffic information obtained by said traffic monitoring function, quantifying the results of evaluation and converting the results of quantification to a preference value (see col. 3 lines 49-56 which recite calculating the numbers of packets received in order to derive a measure of traffic load); and a preference value insertion function for inserting said

preference value in a header of a datagram being processed at

said current point in time (see col. 7 lines 34-45 which recite

marking the packet with a value which determines the priority or

preference on the next path and col. 10 line 58 to col. 11 line

21 which recite the use of the header field that defines the

traffic class and type of service).

Regarding claim 2:

Davies et al. disclose the datagram transfer system for

receiving datagrams sent from individual users' terminals in a

datagram transmission node and forwarding said datagrams to a

destination address specified on a header of said datagrams,

wherein an impact of said datagrams on network operation is

evaluated by a traffic monitoring equipment according to traffic

information on said datagrams (see col. 5 lines 46-65 which

recite the processor for monitoring the rate of occurrence of

packets indicative of starts and ends of bursts within the

traffic flow and abstract recites monitoring telecommunications

network traffic having packet stream comprising packets each

identified as belonging to one of three classes to derive a

measure of traffic load on the network and for admission control

based on the monitoring), evaluation results are evaluation

results are quantified, and quantified results are converted and

are inserted in said header as a preference value (see col. 7

lines 34-45 which recite marking the packet with a value which

determines the priority or preference on the next path and col.

10 line 58 to col. 11 line 21 which recite the use of the header

field that defines the traffic class and type of service).

Regarding claim 17:

Davies et al. disclose the method for performing

prioritized transfer of datagrams transmitted by individual

users far being transferred through a network (see col. 1 lines

14-20) including the steps of evaluating an impact of

transmitting a datagram on network operation for each of the

individual users (see col. 5 lines 46-65 and col. 6 line 63 to

col. 7 line 3); computing a preference value for said datagram

to reflect evaluation result (see col. 3 lines 49-56); inserting

a computed result in a header of said datagram (see col. 7 lines

34-45 and col. 10 line 58 to col. 11 line 21); and performing

prioritized forwarding the datagrams according to the preference

value computed far successive datagrams (see col. 7 lines 34-

45).

Regarding claim 3:

Davies et al. disclose wherein said system includes a

device for performing prioritized forwarding of said datagrams

according to said preference value specified in each header of

said datagrams (see col. 1 lines 14-20).

Regarding claim 5:

Davies et al. disclose wherein said traffic information includes a length of a datagram or time intervals between transmissions of successive continual datagrams (see Figs. 3 and 5, col. 10 line 64 to col. 11 line 4, and col. 11 lines 48-53).

Allowable Subject Matter

4.   Claims 4, 6-16, and 18-27 would be allowable if rewritten to overcome the objections and to include all of the limitations of the base claim and any intervening claims.

Conclusion

5.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shick C Hom whose telephone number is 571-272-3173. The examiner can normally be reached on Monday to Friday with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on 571-272-3174. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.
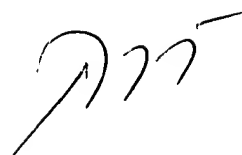
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Art Unit: 2666

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